

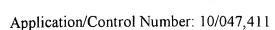
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APPLICATION NO.	FILI	NG DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/047,411	01/16/2002		Erik Thurman Donhowe	· · · · · · · · · · · · · · · · · · ·	5293
7:	590	02/14/2003			
Erik T. Donho	owe		EXAMINER		
Suite 243 200 South Wild			SHERRER, CURTIS EDWARD		
Castle Rock, CO 80104				ART UNIT	PAPER NUMBER
				1761	u
				DATE MAILED: 02/14/2003	7

Please find below and/or attached an Office communication concerning this application or proceeding.

•							
	Application No.	pplicant(s)					
	10/047,411	DONHOWE, ERIK THURMAN					
Office Action Summary	Examiner	Art Unit					
	Curtis E. Sherrer	1761					
The MAILING DATE of this communication appears on the cover she t with the correspondence address Period for Reply							
A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.  - Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).  - Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).							
1) Responsive to communication(s) filed on <u>16 J</u>	anuary 20 <u>02</u> .						
· —	is action is non-final.						
3) Since this application is in condition for allowa	nce except for formal matters, p	rosecution as to the merits is					
closed in accordance with the practice under a Disposition of Claims	Ex parte Quayle, 1935 C.D. 11,	453 O.G. 213.					
4) Claim(s) 1-15 is/are pending in the application							
4a) Of the above claim(s) is/are withdrawn from consideration.							
5) Claim(s) is/are allowed.							
6) Claim(s) is/are rejected.							
7) Claim(s) is/are objected to.							
8)⊠ Claim(s) <u>1-15</u> are subject to restriction and/or €	election requirement.						
Application Papers	_						
9) The specification is objected to by the Examiner		minor					
10) The drawing(s) filed on is/are: a) accept							
Applicant may not request that any objection to the 11) The proposed drawing correction filed on							
		oved by the Examiner.					
If approved, corrected drawings are required in reply to this Office action.  12) The oath or declaration is objected to by the Examiner.							
Priority under 35 U.S.C. §§ 119 and 120	arriii ( )						
13) Acknowledgment is made of a claim for foreign	noriority under 35 H.S.C. & 1190	a)-(d) or (f)					
a) All b) Some * c) None of:	phoney and cross c.c. grifty	a) (a) 51 (t).					
1. Certified copies of the priority documents	s have been received						
		tion No					
<del>-</del>							
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received.							
14) ☐ Acknowledgment is made of a claim for domesti	c priority under 35 U.S.C. § 119	(e) (to a provisional application).					
a) ☐ The translation of the foreign language provisional application has been received.  15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.							
Attachment(s)							
1) Notice of References Cited (PTO-892) 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) Information Disclosure Statement(s) (PTO-1449) Paper No(s)	5) 🔲 Notice of Informal	ry (PTO-413) Paper No(s) Patent Application (PTO-152)					



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## **DETAILED ACTION**

## Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-13, drawn to beverages, classified in class 426, subclass 592.
- II. Claims 14-15, drawn to processes for the production of beverages, classified in class 426, subclass 16.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case the product as claimed can be made by another and materially different process, for example, the supplements can be added prior to fermentation.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

Because these inventions are distinct for the reasons given above and the search required for Group I is not required for Group II, restriction for examination purposes as indicated is proper.

This application contains claims directed to the following patentably distinct species of the claimed invention: Applicant, if he selects to have Group II prosecuted, must choose either 1)

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Curtis E. Sherrer whose telephone number is 703-308-3847. The examiner can normally be reached on Tuesday-Friday, 8AM-6:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on 703-308-3959. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-3602 for regular communications and 703-305-3602 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

Curtis E. Sherrer Primary Examiner

February 12, 2003



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Indexing Officer: MNURU - MESERET NURU

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No.	Doccode	Number of pages
1	CTNF	7
2	892	1

Total number of pages: 8	
Remarks:	